

available for all existing public television stations and all vacant reserved NTSC allotments.

VI. The Commission Must Afford Noncommercial Applicants Some Opportunity To Apply For Both A Vacant NTSC Allotment And The ATV Channel With Which It Is Paired.

In its Second Report, the Commission stated, in explaining its proposal to allot ATV channels for vacant NTSC reservations, that the "pairing [of ATV channels with vacant noncommercial NTSC allotments] permits noncommercial applicants to continue applying for NTSC/ATV pairs until the point that initial ATV assignments are completed." See Second Report, ¶ 51. However, recent Commission rulings in this proceedings, when read together, appear to preclude applicants for currently vacant NTSC noncommercial allotments from applying for an associated ATV channel if their NTSC applications were filed after October 24, 1991.^{22/}

Under the Commission's proposed procedures, noncommercial educational entities can apply for vacant reserved NTSC channels during the initial filing window for ATV channels. Such an applicant would not be eligible, however, to apply for an ATV channel during that window because it would not qualify as an

^{22/} The Commission has established October 24, 1991, as the cut-off date for "existing broadcasters." Applicants that file for NTSC channels after that date are not eligible to apply for ATV channels during the initial filing window.

"existing broadcaster."^{23/} Rather, these applicants would be required to apply for an ATV channel after that window closes, and thus face the risk of a competing application.^{24/} Such a result is inconsistent with the Commission's statement in the Second Report.

Moreover, the result makes little sense since the Commission is proposing to reserve ATV channels for vacant NTSC reserved allotments. See Second Report, ¶ 37. Thus, ATV channels would effectively be paired with the NTSC channels, yet the noncommercial licensee operating on the NTSC channel could not obtain the ATV channel without facing the risk that a competing application might be filed.

As the Commission seemed to recognize in the Second Report, there should be some period during which a noncommercial applicant can apply for both a vacant NTSC allotment and its associated or paired ATV channel. Since the Commission intends to delete vacant reserved NTSC channels at the end of the initial

^{23/} The Commission has limited initial eligibility for ATV channels to (1) full service television broadcast station licensees; (2) holders of construction permits granted on or prior to October 24, 1991; and (3) all parties with applications for a construction permit on file as of October 24, 1991, who are ultimately awarded full service television broadcast licenses. Second Report, ¶¶ 8-9.

^{24/} The Commission has also decided that it will cease issuing new NTSC licenses, including noncommercial NTSC licenses, at the end of the initial filing window. See Second Report, ¶ 51. Thus, while a noncommercial applicant would be able to apply for any reserved noncommercial ATV channels that remain after the initial filing window closes, it would not then be able to apply for the reserved NTSC channel since the Commission intends to delete those channels.

ATV filing window, Public Television believes that a noncommercial applicant should have an opportunity to apply for the vacant reserved channel pairs during that filing window.^{25/} If vacant noncommercial NTSC allotments are paired with reserved ATV channels in the Final Table of Allotments, the Commission could easily permit noncommercial applicants to apply for those channel pairs during the initial filing window, even if those applicants do not qualify as "existing broadcasters." If the Commission adopts its proposed first-come, first-served assignment procedure, it could identify those communities in which it has allotted a channel or channels for vacant NTSC reserved allotments. Noncommercial applicants could then be permitted to file applications for NTSC and ATV channels in those markets, and their applications could be given a secondary priority to all ATV applications filed by existing broadcasters in the market.

VII. Public Television Supports The Commission's Proposal To Avoid Utilization Of Channel 6 For ATV.

Public Television supports the Commission's decision to avoid using Channel 6 for ATV unless there is no other readily available allotment that would meet the minimum spacing requirements established by the Commission. See Second Further Notice, ¶ 45. As the Commission observes, use of Channel 6 may

^{25/} Noncommercial applicants which file for a NTSC authorization after October 24, 1991 and before the initial ATV filing window is opened should be treated in the same manner.

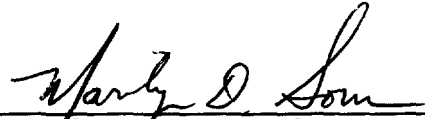
create interference to FM radio service on FM Channel 253 and Channel 6 would face interference from radio service on noncommercial educational FM Channels 201-220. To the extent possible, the Commission should continue to protect against interference between Channel 6 and FM radio transmissions.

Conclusion

For the foregoing reasons, the Commission should (i) adopt as one of its allotment objectives the preservation of spectrum for noncommercial use; (ii) utilize both the VHF and UHF bands if that is necessary to accommodate all existing broadcasters and to pair ATV channels with vacant reserved NTSC allotments; (iii) accompany its site specific allotment approach with a compatible assignment procedure; (iv) preserve short-spaced ATV allotments until ATV channels are reserved for all existing noncommercial educational licensees and permittees and all vacant noncommercial educational allotments, except in the very limited circumstances enumerated in the Second Report; (v) afford noncommercial

applicants an opportunity to apply for vacant paired NTSC and ATV channels; and (vi) avoid allotting TV Channel 6 for ATV service.

Respectfully submitted,



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Exhibit A

**NTSC Reserved Channels That Would Have To Be Deleted
Because They Are Co-Channel To ATV Channels
Allotted To Same Community Of License In Sample Table**

| <u>State</u> | <u>Community of License</u> | <u>NTSC Reserved Channel</u> | <u>ATV Channel in Sample Table</u> |
|----------------|---------------------------------|--------------------------------------|--|
| Georgia | Columbus | 48 | 48 |
| Minnesota | Alexandria | 24 | 24 |
| | Mankato | 26 | 26 |
| Mississippi | Hattiesburg | 47 | 47 |
| Missouri | St. Louis | 40 | 40 |
| New Mexico | Farmington | 15 | 15 |
| New York | Rochester | 61 | 61 |
| North Carolina | Raleigh | 34 | 34 |
| Texas | Laredo | 39 | 39 |
| | San Angelo | 21 | 21 |
| Washington | Seattle | 62 | 62 |

Exhibit B


Declaration of David Sillman

1. My name is David Sillman. I am Director of Interconnection Engineering at the Public Broadcasting Service.

2. I have reviewed the channel allotments in the sample ATV Table of Allotments attached as Appendix D to the Commission's Second Further Notice of Proposed Rulemaking released August 14, 1992, for the eleven states listed in Table 1 attached hereto. Based on my review, I have concluded that it is likely that 36 of the 48 vacant NTSC channels currently reserved for noncommercial educational use in those states would have to be deleted if the sample Table were adopted. Each of those 36 vacant reserved NTSC allotments is short-spaced to a co-channel ATV allotment in the sample Table. In my opinion, NTSC and ATV stations operating on the co-channels specified in Table 1 at the distances specified in Table 1 would experience objectionable interference.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 16, 1992



David Sillman

TABLE 1
VACANT NTSC CHANNELS-NORTHEASTERN STATES
 (Source: FCC Technical Supplement)

| ST | COMMUNITY | CH | CLOSE SP'D ATV-COCH'L MILEAGE |
|-----|--------------------|----|-------------------------------|
| DE | DOVER | 34 | PHILADELPHIA, PA 63 MILES |
| MA | NEW BEDFORD | 34 | NEW BRITAIN, CT 98 MILES |
| | NORTH ADAMS | 35 | HARTFORD, CT 66 MILES |
| MD | WALDORF | 58 | NONE |
| ME | FORT KENT | 46 | NONE |
| | FRYEBURG | 18 | MERRIMACK, NH 76 MILES |
| | HOULTON | 25 | NONE |
| | KITTERY | 39 | BOSTON, MA 60 MILES |
| | MILLINOCKET | 44 | NONE |
| | RUMFORD | 43 | LITTLETON, NH 60 MILES |
| NH | HANOVER | 15 | BURLINGTON, VT 62 MILES |
| NJ | ATLANTIC CITY | 36 | PHILADELPHIA, PA 64 MILES |
| NY | ALBANY-SCHENECTADY | 29 | HARTFORD, CT 74 MILES |
| | AMSTERDAM | 39 | RUTLAND, VT 74 MILES |
| | CORNING | 30 | SYRACUSE, NY 74 MILES |
| | GLENS FALLS | 58 | PLATTSBURGH, NY 96 MILES |
| | ITHACA | 65 | SCRANTON, PA 80 MILES |
| | LAKE PLACID | 34 | NONE |
| | ROCHESTER | 61 | ROCHESTER, NY 0 MILES |
| | UTICA | 59 | ONEONTA, NY 48 MILES |
| PA | ALTOONA | 57 | PITTSBURG, PA 82 MILES |
| | JOHNSTOWN | 28 | MARTINSBURG, WVA 79 MILES |
| | STATE COLLEGE | 59 | NONE |
| VA | BLACKSBURG | 43 | BLUEFIELD, VA 45 MILES |
| | BLUEFIELD | 63 | GRUNDY, VA 56 MILES |
| | BRISTOL | 28 | NONE |
| | COURTLAND | 52 | RICHMOND, VA 62 MILES |
| | DANVILLE | 56 | GREENSBORO, NC 48 MILES |
| | FARMVILLE | 31 | PETERSBURG, VA 46 MILES |
| | LYNCHBURG | 54 | NONE |
| | NORFOLK-PORTSMOUTH | 55 | RICHMOND, VA 75 MILES |
| | ONANCOCK | 25 | SALISBURY, MD 55 MILES |
| | WEST POINT | 46 | RICHMOND, VA 37 MILES |
| OH | COLUMBUS | 56 | LIMA, OH 79 MILES |
| | HILLSBORO | 24 | NEWARK, OH 82 MILES |
| | LIMA | 57 | DAYTON, OH 70 MILES |
| | SPRINGFIELD | 66 | RICHMOND, IND 53 MILES |
| | STEBENVILLE | 62 | WHEELING, WVA 22 MILES |
| | YOUNGSTOWN | 58 | AKRON, OH 49 MILES |
| | MANSFIELD | 47 | NONE |
| | NEWARK | 31 | NONE |
| WVA | CHARLESTON | 49 | PORTSMOUTH, OH 82 MILES |
| | MARTINSBURG | 44 | BALTIMORE, MD 71 MILES |
| | WEIRTON | 50 | JOHNSTOWN, PA 85 MILES |
| | WHEELING | 41 | CANTON, OH 61 MILES |
| | WILLIAMSON | 31 | OAK HILL, WVA 65 MILES |
| | KEYSER | 30 | NONE |
| | PARKERSBURG | 57 | NONE |

Certificate of Service

I, Paula Lust, hereby certify that on this 16th day of November, 1992, I served a true copy of the foregoing **Comments of Association of America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service on Second Further Notice of Proposed Rulemaking** by hand delivery to:

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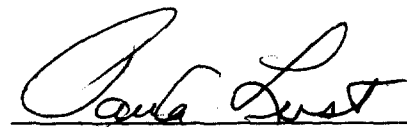
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